

Department of the Navy, DoD

§ 756.8

§ 756.5 Investigation.

Claims arising out of the operation of NAFI's, in and outside the United States, shall be investigated in accordance with the procedures for investigating similar claims against appropriated fund activities in order to protect the residual liability of the United States. All claims should be submitted to the command having cognizance over the NAFI involved.

§ 756.6 Negotiation.

(a) *General.* Claims from NAFI's should be processed primarily through NAFI claims procedures, using as guidelines the regulations and statutes applicable to similar appropriated fund activity claims.

(b) *When the NAFI is insured.* When a NAFI is insured, the insurer or the contracted third-party claims administrator (TPA) will normally conduct negotiations with claimants. The appropriate naval adjudicating authority as shown in 32 CFR 750.34(c)(2)(ii) has the responsibility of monitoring the negotiations conducted by the insurer or TPA. Monitoring is normally limited to ascertaining someone has been assigned to negotiate, to obtain periodic status reports, and to close files on settled claims. Any dissatisfaction with the insurer's or TPA's handling of the negotiations should be referred directly to the Judge Advocate General for appropriate action. Under special circumstances, even when there is an insurer or TPA, the appropriate naval adjudicating authority may conduct negotiations, provided the command involved and the insurer agree to it. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the insurer or TPA for payment.

(c) *When the NAFI is not insured.* When there is no private, commercial insurer and the NAFI has made no independent arrangements for negotiations, the appropriate Navy adjudicating authority is responsible for conducting negotiations. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the NAFI for payment from nonappropriated-funds.

§ 756.7 Payment.

(a) *Claims that can be settled for less than \$1000.00.* A claim not covered by insurance (or not paid by the insurer), that can be settled for \$1000.00 or less, may be adjudicated by the commanding officer of the activity concerned or designee. The claim shall be paid out of funds available to the commanding officer.

(b) *Claims that cannot be settled for less than \$1000.00.* A claim negotiated by the Navy, not covered by insurance, that cannot be settled for less than \$1000.00, shall be forwarded to the appropriate nonappropriated-fund headquarters command for payment from its nonappropriated-funds.

(c) *When payment is possible under another statute.* In some cases neither the NAFI nor its insurer may be legally responsible. In those instances, when there is no negligence, and payment is authorized under some other statute, such as the Foreign Claims Act, 10 U.S.C. 2734-2736, the claim may be considered for payment from appropriated funds or may be referred to the Judge Advocate General for appropriate action.

(d) *Other claims.* A NAFI's private insurance policy is usually not available to cover losses which result from some act or omission of a mere participant in a nonappropriated-fund activity. In the event the NAFI declines to pay the claim, the file shall be forwarded to the Judge Advocate General for determination.

§ 756.8 Denial.

Claims resulting from nonappropriated-fund activities may be denied only by the appropriate naval adjudicating authority. Such a denial is necessary to begin the 6-month limitation on filing suit against the United States for claims filed under the Federal Tort Claims Act. Denial of a claim shall be in writing and in accordance with subparts A or B of part 750 of this chapter, as appropriate. The appropriate naval adjudicating authority should not deny claims which have initially been processed and negotiated by a nonappropriated-fund activity, its insurer or TPA until the activity or its insurer has clearly stated in writing that it does not intend to pay the